

**United States Senate**  
WASHINGTON, DC 20510

March 15, 2017

Walter Shaub  
Director, Office of Government Ethics  
1201 New York Avenue, Suite 500  
Washington, DC 20005

Dear Director Shaub,

We write to express concern over recent news that the Chinese government has awarded preliminary approval to President Donald J. Trump for 38 trademarks, 35 of which will be awarded to him personally,<sup>1</sup> and to request your interpretation and advice regarding the applicability of federal anti-bribery laws to this award.

As you know, the President is exempt from 18 U.S.C. §§202-209, the federal conflict-of-interest statutes, although your office has previously recommended that the President should act as if bound by this law as a matter of policy.<sup>2</sup> The President is, however, bound by 18 U.S.C. §201, the federal law covering bribery and illegal gratuities to public officials, which reads in relevant part:

“(b) Whoever— ...

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

... shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States. ...

(c) Whoever—

(1) ...

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

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<sup>1</sup> Erika Kinetz, *China grants preliminary approval to 38 new Trump trademarks*, Associated Press, Mar. 9, 2017, <https://apnews.com/8f54b14808a2459f9efcb0089f41f056>.

<sup>2</sup> See, e.g., Letter to a Deputy DAEO dated Oct. 20, 1983, Office of Government Ethics, [https://www.oge.gov/Web/OGEnsf/All+Advisories/01F8E09232041FD185257E96005FBBE8/\\$FILE/64ed9ad9bd294b45a88ac8729a97968a3.pdf](https://www.oge.gov/Web/OGEnsf/All+Advisories/01F8E09232041FD185257E96005FBBE8/$FILE/64ed9ad9bd294b45a88ac8729a97968a3.pdf).

... shall be fined under this title or imprisoned for not more than two years, or both.”

The grant of a trademark is ordinarily a ministerial act, but the expeditious approval of more than three dozen trademarks by China’s Trademark Office, after “years”<sup>3</sup> of efforts by Mr. Trump’s legal team, appears to be out of the ordinary. Many of us wrote with concern to President Trump last month regarding the grant of an enormously valuable trademark to the Trump Organization, which President Trump owns, on February 14, just days after the President spoke to Chinese President Xi Jinping and affirmed that the United States would continue the One-China policy. As you may know, in China, the ruling Communist Party exerts enormous control over state agencies, including the State Administration for Industry and Commerce, in carrying out official actions such as the grant of trademarks.<sup>4</sup> We are alarmed that the awarding of valuable trademarks by the Chinese government to President Trump and the Trump Organization in exchange for favorable policy decisions may run afoul of the Emoluments Clause of the Constitution and federal anti-bribery laws.

The mission of your Office includes “interpreting and advising on ethics laws [and] policies,” and your Office has previously “provided advisory or regulatory guidance concerning the relationship between the bribery law [and] the illegal gratuities statute.” As such, we ask for your guidance on the following questions:

1. Was the Office of Government Ethics consulted regarding the applicability of ethics regulations and laws to the grant of trademarks to the Trump Organization and to President Trump by the Chinese government?
2. If so, did you advise them that you were comfortable with their course of action in light of ethics laws, policies, and established norms, including 18 U.S.C. §201?

Thank you for your attention to this matter.

Sincerely,



RICHARD BLUMENTHAL  
United States Senator



TOM UDALL  
United States Senator



BERNARD SANDERS  
United States Senator



JEANNE SHAHEEN  
United States Senator

<sup>3</sup> China grants preliminary approval to 38 new Trump trademarks, *supra* note 1.

<sup>4</sup> See, e.g., *id.*



  
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